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Supreme Court, U.S.
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No. _____

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

PATRICK ANENE EGBUNE,
Petitioner,

v.

STATE OF COLORADO,
Respondent.

On Petition For Writ of Certiorari To The
(Colorado Supreme Court)

PETITION FOR WRIT OF CERTIORARI

Patrick Anene Egbune
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56 pp

ISSUES PRESENTED

1. Whether under the circumstances of this case, the hearing board violated the due process clause of the 14th Amendment to the United States Constitution and erred in requiring that Patrick Anene Egbune pursuant to C. R. C. P. 251.29(b) and as evidence and condition supporting the hearing board's need to meet the "rehabilitation" requirement following suspension from the practice of law, admit to committing an offence he did not actually commit and then proceed to engage in some sort of "rehabilitation" of an offence he did not actually commit.

2. Whether the requirement of rehabilitation as provided in C. R. C. P. Rule 251.29(b) and construed by the Hearing Board, in all issues concerning the Petitioner, is arbitrary and capricious for failure to specify a rehabilitation program that would indeed satisfy the hearing board's requirement, in violation of the due process clause of the 14th Amendment to the United States Constitution..

3. Whether the hearing board's refusal to recognize the mitigating circumstances in Petitioner's case is irrational and violates due process clause of the 14th Amendment to the United States Constitution.

4. Whether the "rehabilitation"requirement as a condition for reinstatement of an attorney under suspension in Colorado, as provided in C. R. C. P. 251.29(b) and construed by the Hearing Board, is vague, thus violates due process clause of the 14th Amendment to the United States Constitution.

5. Whether the hearing board is estopped from discussing the matter of filing of Petitioner's quarterly medical report given the opinion of the Supreme Court of Colorado on page 26 of its suspension order, or whether the issue was waived for purposes of reinstatement, except as provided by order of the Supreme Court of Colorado on page 26 of the January 19,1999, suspension order.

6. Whether the Petitioner was denied due process and equal protection under the law as provided by the 14th Amendment to the United States Constitution.

7. Whether the Supreme Court of the State of Colorado, consonant with the Due Process and Equal Protection clauses of the 14th Amendment, to the United State Constitution, may destroy record and evidence submitted to it for review, or declare that the transcript of a proceeding was not filed with it for review, when in fact the transcript was filed, in order to support a decision to suspend the petitioner from the practice of law.

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TABLE OF AUTHORITIES

1. **Section 1, 14th Amendment** to the United States Constitution----------17

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3. Donaldson v. Gaudio, 260 F. 2d 333 (10th Cir. 1958).----------3

OFFICIAL AND UNOFFICIAL REPORTS CITED BY THE LOWER COURTS

1. Goff v. People, 29 Colo. Law. 126, 128-130 (October 2000)

2. In re Egbune, 971 P.2d 1065 (Colo. 1999), cert denied, 526 U. S. 1115 (1999)

3. In re Sharpe, 499 P. 2d 406, 409, (Okla. 1972)

4. Roth v. State Bar, 253 P. 2d 969, 972 (Cal. 1953)

5. Tardiff v. State Bar, 612 P. 2d 919, 923 (Cal. 1980).

OPINIONS BELOW

The opinion of the highest state court to review, the Supreme Court of Colorado, affirming the order of a Hearing Board under the Supreme Court, appears at **Appendices A and B** and unpublished.

The order of the Supreme Court of Colorado suspending the Petitioner from the practice of law was published in the Pacific Reporter second, as shown below:

In re Egbune, 971 P. 2d 1065 (Colo. 1999)

Certiorari was denied in the above case at

526 U. S. 1115 (1999)

STATEMENT OF JURISDICTION

The order sought to be reviewed was entered on September 5, 2001, by the Supreme Court of Colorado, Case No. 01-SA-62, affirming the decision of its Hearing Board, Case No. 00PDJ058, being the Opinion and Order Denying Reinstatement. The decisions of the court appear in **Appendices A and B herein.**

The jurisdiction of this Court is invoked under the provision of 28 U. S. C. § 1257 (a) for Petition of Certiorari to the Supreme Court of the State of Colorado concerning the Opinion and Order Denying Reinstatement, following completion of the period of Suspension from the practice of law, entered against Petitioner, Patrick Anene Egbune, on January 19, 1999.

No rehearing nor extension of time for filing of the petition for certiorari was requested.

This Petition for certiorari, does not challenge the constitutionality of any statute of Congress, therefore, the notification requirement of this Court's Rule 29.4(b) is not required to be made.
This Petition for certiorari, does challenge the constitutionality of a State statute, viz.: State of Colorado's C. R. C. P. 251.29(b), however, the State of Colorado is a party to this action, thus, the notification requirement of this Court's Rule 29.4(c) is not required to be made.

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THIS CASE

Section 1, 14th Amendment to the United States Constitution:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Colorado Rules of Civil Procedure.

C. R. C. P. 251.29(b), stating in part:

An attorney who has been suspended for a period longer than one year must file a petition with the Presiding Disciplinary Judge for reinstatement and must prove by clear and convincing evidence that the attorney has been rehabilitated, has complied with all applicable disciplinary orders and with all provisions of this chapter, and is fit to practice law.

STATEMENT OF THE CASE

The Petitioner, Patrick Anene Egbune, (hereinafter "Petitioner") filed a Petition for Writ of Certiorari, Case No. **98-1552,** in 1999, following an unjust suspension from the practice of law by the Supreme Court of Colorado. The report presented to this honorable court in Case 98-1552 is hereby incorporated by reference as if fully stated herein and made a part of this petition.

Following the order of suspension of Januar 19, 1999, the Disciplinary Judge issued an order adding six (6) months to the one year and one day concerning a case implicating Colorado law as reported in Colorado Revised Statute - C. R. S. § § 12-5-119 and 12-5-120 in which the Disciplinary Judge ruled that the Petitioner did not handle the situation created in that case as it should have been handled, despite the fact that the Petitioner was relying on the law and the fact that he had been treated in the same manner as the complaining attorney in the case, by other law firms.

The complaint against the Petitioner, Patrick Anene Egbune, was filed by Philip Cockerille. Mr. Philip Cockerille had filed an action in county court, against Continental Casualty Insurance, his former client, Gezachew Ambaw and the Petitioner, concerning his claim for attorney's fees in a matter in which he was fired by his client who claim that Mr. Cockerille was unprofessional.

All Defendants raised the defense of C. R. S. §§ 12-5-119 and 12-5-120 which states that there is no common law "lien" in Colorado and that unless an attorney files an action in court, in a situation such as a personal injury case of which Mr. Ambaw was involved in, the attorney does not have a "lien". The county court judge dismissed the matter based on the interpretation of C. R. S. §§ 12-5-119 and 12-5-120. Mr.

Cockerille appealed the matter before a district judge who affirmed the decision of the county court, citing Court decisions about the none existence of lien.

No further appeal was taken except the subsequent action before the Disciplinary Judge. At the hearing before the Disciplinary Judge, The Hearing Judge noted that Mr. Cockerille did not file any statement of any reasonable time spent representing Mr. Ambaw nor did he demonstrate what his reasonable fee should be. Further, Mr. Cockerille did not consult the Jury Verdict Reporter and Proof of Facts, which an average attorney ought to consult to evaluate a case, before advising his client. Petitioner had record of his review of the Jury Verdict Reporter and Proof of Facts. Mr. Cockerille did not hand any file concerning his representation of Mr. Ambaw, to the Petitioner. His only contact with Petitioner was several months after Petitioner with a written authorization from the client, Mr. Ambaw, settled a part of Mr. Ambaw's case. At that time Mr. Cockerille wrote a letter asking if Petitioner needed help with Mr. Ambaw's case. No Notice of lien was filed by Mr. Cockerille.

However, Patrick A. Egbune was ordered to find a way to resolve the matter or file an interpleader action. Petitioner had the matter resolved with Mr. Cockerille. Mr. Ambaw, the client submitted the following affidavit that was filed with the County Court and paraphrased by Patrick A. Egbune during his testimony on November 6, 2000, (See Transcript of Proceeding, November 6, 2000, on page 46, lines 5-14). **Affidavit of Gezachew Ambaw:**

> Mr. Philip R. Cockerille spent two years doing nothing but advising me, to lie and fake the extent of my injuries and my condition to my medical doctors, and told me that

> both of us (Philip R. Cockerille
> and myself, Gezachew Ambaw),
> will make a lot of money from
> the insurance company if I do so.

Mr. Ambaw went on to say that the Grievance Committee and Mr. James Sudler think that because "himself and the Petitioner are from Africa, we must be stupid."

The Petitioner subpoenaed Mr. Franklin D. Patterson, (See **APPENDIX C)** who testified that at the time Petitioner's cases were being delayed at Arapahoe District court, as reported in **Case 98-1552**, some of Petitioner's clients sought different attorney's for cases already filed in court, protected under C. R. S. §§ 12-5-119 and 12-5-120, yet when settlement was achieved, no money was segregated nor was there any payment made for services rendered by the Petitioner.

Petitioner was suspended for six additional months. An analogy of the situation in this case may clarify the issue. It is the opinion of the Petitioner, that this matter is like sanctioning the Petitioner for advising a client to exercise the constitutional right under the 5th Amendment to the United States Constitution to remain silent, on the ground that Judeo-Christian ethics mandates speaking out the truth at all times.

The Petitioner hereby submits the Colorado law, to illustrate this point. In Donaldson v. Gaudio, 260 F. 2d 333 (10th Cir. 1958), aff'g In re Forrest A. Heath Co., 159 F. Supp. 632 (D. Colo. 1958), the Tenth Circuit in interpreting Colorado law held as follows: Under Colorado law, the common law attorney's lien is not preserved, and no lien exists apart from C. R. S. §§ 12-5-119 and 12-5-120. **There is no authority in Colorado for an equitable lien** apart from C. R. S. §§ 12-5-119 and 12-5-120. Under Colorado statute giving attorney lien on any and all claims and demands in "suit", **lien cannot attach prior to commencement of suit**. This honorable court may

take notice that the Disciplinary court in suspending the Petitioner and during the discussion of the law and issues pertaining to reinstatement did not refer to C. R. S. §§ 12-5-119 and 12-5-120, which was cited to the court nor did the court analyze the disciplinary rules in relation to the provisions and judicial construction of C. R. S. §§ 12-5-119 and 12-5-120. See **APPENDIX B**. This honorable court may also take notice of the People of Colorado's response to Petitioner's Second **Request for Admission #8**. The People were still referring to equitable lien, in spite of the law that states that there is no "equitable lien" in Colorado, other than the statute that mandates proceeding with a law suit as a condition precedent to the attachment of a lien. Mr. Cockerille did not file a law suit on behalf of Mr. Ambaw and when asked to prove the reasonable amount of service rendered failed to do so.

The Petitioner had two claims presented to him by Mr. Ambaw which could have been joined under Colorado law were it not for the settlement of the initial accident. Petitioner filed a law suit under the second set of facts, within a short time after the claims were presented to him. At the reinstatement hearing, Petitioner stated that based on the decision of the court and in spite of the mitigating circumstances in this case, that he had learn valuable lesson.

On or about August 20, 2000, the Petitioner was due to be reinstated. Petitioner filed a petition for reinstatement. The matter was set for hearing on November 6 and 7, 2000. Petitioner disclosed and subpoenaed the following lay witnesses and expert witness:

1. Franklin D. Patterson, Patterson & Nuss, P. C.
2. Lori K. Stenstrom, Kirkpatrick and Stenstrom, Inc.
3. Tanya Norris, Deputy Clerk, Colorado Supreme Court
4. Marsha Kerr, Colorado Supreme Court
5. Erich Halvorsen, Leasing Manager, Freeway Ford

6. Carla Shoeboot
7. Karen Mack
8. Richard Dennis Semakula, Big Mike Naughton Ford
9. Igor Shigrin, Keller Williams Realty, LLC
10. Yvonne Wood
11. Patrick A. Egbune

Expert Witness:

Neil Allen Weiner, M. D.

Mr. James Sudler, Colorado Supreme Court, Office of Attorney Regulation, representing the People of the State of Colorado disclosed David Wahl, M. D. as his expert witness. The People did not disclose nor call any lay witness. If there is any interest as to who called a given expert witness, see **APPENDIX F.** The only point to be made here, is that David Wahl, M. D. submitted a report that was not true and the Petitioner moved and had his report withdrawn. This is to demonstrate what the Petitioner had to deal with. He testified without the report of his opinion filed, as required by law. Neither David Wahl, M. D. nor Mr. James Sudler, disclosed prior to Dr. David Wahl's testimony that he was part of the Grievance Committee that was discussed in Case **98-1552** as failing to abide by due process of law. See **APPENDIX F**

Petitioner disclosed and filed the following Exhibits:

1. Amended and Supplement to Amended Disclosure of Witnesses
2. The People of the State of Colorado was the "Respondent" thus, Respondent's Responses to Request for Admission and Interrogatories; **APPENDIX D**
3. Respondent's Responses to Second Request for

Admission and Interrogatory. **APPENDIX E**

4. Neil Weiner, M. D. report to the Supreme Court, dated October 27, 1997
5. Neil Weiner, M. D. report to the Supreme Court, dated July 30, 1998
6. Report of lithium level, dated July 23, 2000
7. Neil Weiner, M. D. progress note, dated June 22, 2000
8. Supreme Court record of continuing legal education
9. Affidavit of Lori Stenstrom showing filing of March 11, 1998 transcript that the Supreme Court of Colorado claimed was not filed.. Submitted as **APPENDIX I** of Case No. **98-1552**
10. Tanya Norris, Deputy Clerk, Supreme Court of Colorado letter to Franklin D. Patterson admitting that the Supreme Court of Colorado received the transcript of March 11, 1998, that it claim that it did not receive. **APPENDIX C**
11. Copy of writ of Certiorari to the U. S. Supreme Court, Case **98-1552**
12. Waiver filed by Attorney General, State of Colorado, Case No. **98-1552**
13. Neil A. Weiner, M. D. expert report and CV.

Mr. James Sudler, Assistant Regulation Counsel, Colorado Supreme Court, Office of Attorney Regulation, representing the People of the State of Colorado, present Peoples' Exhibit 1-5, being 5 previous disciplinary cases. Mr. Sudler was the People's attorney, implicated by **Lisa Hensley,** attorney at law, as the person who sent her to the Petitioner's office, as previously reported in Case **98-1552.**

When Exhibits were being disclosed by the Petitioner, prior to the hearing, the Petitioner, for the first time disclosed Tanya Norris, Deputy Clerk, Supreme Court of Colorado, letter to Mr. Franklin D. Patterson admitting that the Supreme Court

of Colorado received the transcript of March 11, 1998, that the court claimed that it did not receive, as previously reported in **Case 98-1552.** See **APPENDIX C** and **APPENDIX G.** In surprise Petitioner was asked why he has never disclosed this document in the past. Petitioner replied that he did not know that pursuit of truth is determined by whether the opposing side is able to secure admission in all cases. Petitioner then stated that the People need no disclosure of matter within its knowledge and possession.

In his opening statement, Mr. Sudler voiced the frustration of the fact that for the first time, the People of the State of Colorado is the "respondent".

Continuing with his presentation of facts at the reinstatement hearing, Petitioner, Patrick Anene Egbune, submitted the following request for admission that was propounded to the "People of the State of Colorado". The entire request for admission and the corresponding responses are hereby submitted verbatim as **APPENDIX D** and **APPENDIX E.** **APPENDIX E** relates to facts pertaining to Mr. Philip Cockerille's case discussed above.

Petitioner discussed the matter concerning Judge Cheryl Post and Lee Darling, attorney at law. In a nutshell, Lee Darling claiming that she has influence in the judiciary, filed a case in county court, while the same issues were before a judge in a prior case filed in the district court. After denying that the case was already in the district court, county court judge allowed the Petitioner to remove the case to the district court and agree to pay fees. Petitioner filed objections. While the case was in the district court, Petitioner filed a motion to consolidate the transferred case and the prior filed district court case. Next, the Petitioner received on behalf of his client an order from Judge Post stating that there was a hearing and that after the hearing she awards $1,000.00 to Ms. Lee Darling. On the face of the order, over $1,600.00 was entered. However, Judge Post drew

a line through that amount and wrote $1,000.00.

Judge Post made the order immediately appealable, in violation of Colorado interlocutory appeal procedure. Petitioner at the time the order was received had only about seven days to decide to appeal the matter to the Colorado Court of Appeal. Petitioner had sufficient time to confer with his client who requested immediate appeal. The Colorado Court of Appeal remanded the case back and advised that the matter should not have been made appealable pursuant to Colorado interlocutory appeal procedure.

The fact was that Petitioner nor his client was made a party to the hearing in which Judge Post awarded $1,000.00 against Petitioner's client. Thus, Petitioner filed a request for investigation with the Colorado Judicial Commission, stating that an ex parte communication occurred when a judge had a hearing and did not include the opposing counsel and awarded fee. The Petitioner did not hear from the Colorado Judicial Commission. Judge Post's order states that the hearing was held in June 1995.

Later Mr. James Sudler, of the Colorado Supreme Court, Office of Attorney Regulation charged that there was no ex parte communication. A deposition of Judge Post was taken as reported in **APPENDIX C.** Judge Post stated that she only spoke to Ms. Lee Darling through the judge's secretary and that it was her secretary that gave Ms. Lee Darling the guideline of the amount she awarded and that Ms. Lee Darling then prepared the order for her signature. Ms. Lee Darling also stated that she communicated to the judge through the judge's secretary. Thus, the reasoning is that when a judge communicates through a proxy to another attorney, without including the opposing attorney, there is no ex parte communication.

Petitioner again stated at the hearing that a valuable lesson was learned and that his understanding and conclusion, was never to make any statement in a situation such as the Lee

Darling/Judge Post case, unless it is fully admitted. Thus, at the hearing for reinstatement of the Petitioner to the practice of law, the Petitioner stated that the lesson is exemplified by the way the Petitioner handled the denial of the Supreme Court that it did not receive the transcript of the March 11, 1998 hearing. Petitioner secured the admission of the Deputy Clerk of the Supreme Court of Colorado and the affidavit of Lori Stenstrom in his possession.

Petitioner, Patrick Anene Egbune also submitted the testimony of a coworker, Thomas Eric Halvorsen, who testified that Petitioner, Patrick Anene Egbune had to possess license, be bonded and possess good moral character to sell cars in Colorado and that Patrick Anene Egbune preserves his interest in his clients when a client arrives in his absence. Further, Mr. Halvorsen testified in response to the inquiry of a Hearing Board Member Lonowski, that he has never observed any unevenness in Patrick Anene Egbune's temperament or mood. Mr. Halvorsen's testimony on behalf of the Petitioner, Patrick Anene Egbune was never controverted.

Carla Renee Shoeboot a former client of Patrick Anene Egbune testified, stating that Patrick Anene Egbune has good moral character to practice law. Ms. Shoeboot further stated that Patrick Anene Egbune has always been professional in his dealings and that Patrick Anene Egbune was using Denny's restaurant to meet with her at the time he practiced from his home, in order to avoid appearance of improper conduct. Miss Shoeboot testified that concerning the reason why Patrick Anene Egbune would not represent her in her divorce, "**Because -- because -- well, we had, between me and my husband, we were -- he dealt with both of us, so he felt that was unethical to represent one or the other against the other one.**" The testimony of Ms. Shoeboot was never controverted.

Richard Dennis Semakula, a coworker of the Petitioner, Patrick Anene Egbune testified. Mr. Semakula reaffirmed the

testimony of Mr. Halvorsen and further stated that you will have to disclose whether you are in suspension in another profession before you are granted license to sell cars in Colorado, which Petitioner did and submitted a copy of the petition for writ of certiorari before he was given license. Mr. Semakula also testified that Patrick Anene Egbune was giving a female Caucasian employee ride to work in the mornings and test driving cars with females without any complaint. Mr. Semakula also stated that Patrick Anene Egbune has the moral character to practice law. His testimony was never controverted.

Karen Mack, a former client of the Petitioner, Patrick Anene Egbune testified. Miss Mack testified that Petitioner, Patrick Anene Egbune handled her divorce in 1998 after the false accusation labeled against the Petition. She stated that she use to visit the office of the Petitioner, Patrick Anene Egbune on Iliff Street and that she was never touched and that she believed that she was treated professionally. Miss Mack testified that Patrick Anene Egbune is a person of good moral character and that she was well represented. She said: "**He was just a good lawyer**". The testimony of Ms. Mack was never controverted.

The complete testimony of all the witnesses can be found in the Transcript of Proceedings, November 6, 2000. Petitioner, Patrick Anene Egbune was an adjunct professor of law at Metropolitan State College, Denver, Colorado - a state institution. He had many female students to teach and had no problem while doing so. The Office of Attorney Regulation was aware of that and so was the State of Colorado, who paid his salary.

The People of the state of Colorado did not call any witness to oppose the reinstatement of Patrick Anene Egbune. The People of the State of Colorado did not call Rhonda Robertson to testify or oppose the petition for reinstatement. Rhonda Robertson did not file any police report of her claim of sexual impropriety against Patrick Anene Egbune. Rhonda

Robertson did not file a civil action for damages for the alleged sexual impropriety against Patrick Anene Egbune. Patrick Anene Egbune testified on his on behalf, See Transcript of Proceedings, November 6, 2000, beginning at page 38. Patrick Anene Egbune under oath discussed the circumstances of the cases brought against him and the lessons learned.

The Disciplinary Judge and Mr. James Sudler concluded in their discussion that Patrick Anene Egbune did not comply with a court order that required the Petitioner, Patrick Anene Egbune to file medical report of his bi polar condition. Petitioner was exempted from submitting medical report when he was on a suspension over one year as stated in page 26 of the Supreme Court order. See **APPENDIX H.** Petitioner has not had any problem with his bi polar disorder since he was discharged from hospital in 1988. Petitioner submitted Dr. Neil Allen Weiner's report to the Supreme Court, dated October 27, 1997, filed as **APPENDIX H** in **Case 98-1552.** and the report filed as **APPENDIX I** herein, stating that Petitioner is fit to practice law. Dr. Weiner also testified that he was informed right about the time the false accusation of Rhonda Robertson was made concerning the false accusation and the court's investigation. He testified that in his experience medical doctors are sometimes falsely accused by females. He rendered an opinion that showed that Patrick Anene Egbune is fit to practice law. The opinion has never changed. As the Hearing Board stated, "Neither Dr. Weiner nor Dr. Wahl expressed the opinion that Egbune's mental condition prevented him from practicing law". Dr. Neil Weiner was asked of the need for psychotherapy on page 115-116, Transcript of Proceeding, November 6, 2000. On page 117 , he stated that part of the monitoring of Patrick Anene Egbune includes psychotherapy.

The Hearing Board submits two grounds for denying Patrick Anene Egbune's petition for reinstatement, viz: 1. That Patrick Anene Egbune has not show by clear and convincing

evidence that he is rehabilitated, 2. That Patrick Anene Egbune did not file the quarterly report usually submitted by his psychiatrist showing his mental condition.

It should be brought to the attention of this honorable court that Mr. James Sudler stated that it was part of his mission to go after the Petitioner and his family. This was reported in U. S. District Court, for the District of Colorado, Civil Action No.: 96-WM-1237 previously cited in **Case No. 1552**.

In another matter, Petitioner represented a client in which expert testimony was required to effectively present the woman's case. Mr. Culpepper, who claimed to have a Ph. D. in Psychology, was presented to the Petitioner as an expert by a client named Ike Azu, who was being treated by him in a case that was handed to Petitioner before he was suspended on August 29, 1997, (the August suspension was reported in Case 98-1552). The court and opposing counsel accepted Mr. Culpepper's expert report without objection. Thus, in the case involving a woman who assaulted her husband with a gun, a psychological and psychiatric profile was needed from a qualified professional. Petitioner who is now back in practice on or about November 12, 1997, sought Mr. Culpepper who had been introduced to him, knowing that a court had accepted his report as an expert in the field of psychology.

Since Petitioner did not conclude Mr. Ike Azu's case and thought that Mr. Culpepper was an expert as represented before he was suspended on August 29, 1997, Petitioner decided that he must verify Mr. Culpepper's credential, in order to use him in the new assault case. Petitioner, paid $600.00 retainer to Mr. Culpepper and then proceeded to verify Mr. Culpepper's credentials. Petitioner discovered that Mr. Culpepper does not have the Doctor of Philosophy degree that he claims as a psychologists. Yet Mr. Culpepper has a plush office, drives an expensive car and has been in practice in Colorado since 1982. Petitioner requested a refund of $600.00 paid to Mr. Culpepper.

Mr. Culpepper declared that "I will not refund the $600.00 and there is nothing you can do because members of the Supreme Court Grievance office are my friends". Petitioner filed a successful civil action against Mr. Culpepper and also reported the matter to the Denver District Attorney's Office. Petitioner also reported to the Denver District Attorney's Office that the Petitioner was displaying male homosexual magazines in his office when he invites the Petitioner to his office.

In the civil action brought by Petitioner, the court referenced the fact that a judge in U. S. District Court for the District of Colorado had ordered Mr. Culpepper to stop appearing in court as an expert, since he does not have the credentials that he claimed to have and again told him that it is time to follow the order. Mr. Culpepper was known to the Supreme Court of the State of Colorado who disbarred him, on or about 1982 for gaining admission to the Colorado bar without proper credentials. Yet Mr. Culpepper continued to use the credentials that was discredited, in Colorado courts without objection, until stopped by Petitioner.

Later Mr. James Sudler's office sent a request for investigation letter to Petitioner claiming that Mr. Culpepper felt threatened when he was asked to pay the $600.00 owed to Petitioner and wanted to know why Petitioner should not be disciplined. Petitioner requested immediate hearing. A letter dismissing the matter was thereafter received by the Petitioner.

If the Office of Attorney Regulation writes letters to investigate a matter concerning an attorney. Why would it be difficult to send a request for compliance with court order regarding medical report if there is serious concern that the report was not received?

The suspension of Petitioner was entered on January 19, 1999 and made effective, February 20, 1999. Immediately after receiving the court ordered suspension, Petitioner was approached by a member of Colorado bar, named Jean S.

Nelson. He informed Petitioner that Petitioner had nothing to worry about, that before Petitioner knows it, the one year and one day suspension will be over. He told Petitioner that he would move into Petitioner's office and pay all bills and support Petitioner financially. Petitioner had at this time, returned case files to his clients. Mr. Nelson told Petitioner to ask his clients that have not secured other attorneys to return their files and that Petitioner would be practicing under him.

Petitioner had represented Mr. Nelson in a case involving child support. Petitioner knew him since law school days. On the last day of representation of Mr. Nelson, by the Petitioner, he was sent to jail for contempt of court for failure to pay court ordered child support. A few days later he came out of jail but did not call Petitioner. Although Colorado has a statute against an attorney practicing law when he is owing child support, this individual continued to practice law.

Thus, when Mr. Nelson suggested that he will pay bills and assist Petitioner financially during the period of suspension, Petitioner inquired as to where the money is coming from. He told the Petitioner not to worry and immediately gave the Petitioner $1,000.00 cash to spend and agreed to pay the office rent. Mr. Nelson had no office of his own. Then after about two weeks, Mr. Nelson started making inquiries about homosexual life style. Mr. Nelson is married with five (5) children and a child with a girl friend, who is demanding child support. Petitioner informed him that he had no such experience and eventual asked him to move out of his office so that he can close down. An irrational proposition. After Mr. Nelson's glorification of homosexual life style, the Petitioner kept a distance from him.

About four months later, Mr. James Sudler filed a motion for contempt, stating that Petitioner was practicing law while under suspension. Petitioner reminded the court that he was under the umbrella of Mr. Jean Nelson. Deposition was taken as

usual and the matter was dismissed. If the Supreme Court of Colorado, Office of Attorney Regulation can file contempt motion for violating court orders, why would it be difficult to send a request for compliance with court order regarding medical report if there is serious concern that the report was not received?

Petitioner, Patrick Anene Egbune paid Dr. Neil Weiner to serve all required reports to the Office of Attorney Regulation and the Supreme Court, for the entire year of 1998 and was told by Dr. Weiner that they were sent. Furthermore, the Supreme Court of the State of Colorado granted Mr. James Sudler the right to seek and obtain the medical reports pertaining to Petitioner, specifically from Dr. Weiner, without prior permission from the Petitioner.

The only time Petitioner did not file the quarterly report was during the period Petitioner was on suspension prior to the hearing of November 6, 2000, i.e. the period between January 19, 1999 to November 6, 2000. See **APPENDIX H.** When the provision of page 26 of the Supreme Court order was brought to the attention of the Disciplinary Judge during the hearing, he told the Petitioner that the Petitioner should continue to furnish report of his bi polar condition, even if he is not in practice. Petitioner has been doing so (by furnishing Dr. Neil Weiner's quarterly report), since the date of the hearing - November 7, 2000.

How important can the charges of the People be, if Rhonda Robertson did not file any police report of her claim of sexual impropriety against Patrick Anene Egbune. Rhonda Robertson did not file a civil action for damages for the alleged sexual impropriety against Patrick Anene Egbune. There was no criminal action brought against Patrick Anene Egbune. Why should a professional be damage for an allegation that is unjustified and without merit?

In the opinion of the Petitioner, it will be anomalous for an individual to be innocent of an allegation and be required as a condition of reinstatement to the practice of law to admit to an

offense he did not commit as evidence of "rehabilitation". In the opinion of the Petitioner, this is the greatest level of injustice. These are the grounds upon which the Petitioner seeks, as a member of the bar of this honorable court, a writ of certiorari to the Supreme Court of Colorado. Petitioner seeks justice and fairness.

It is common place in Colorado law practice that people who appear before judges, do explain to them, the reasons, if any, behind an action taken. Petitioner, in presenting the facts and circumstances of the Phillip Cockerille and Judge Post matters were presenting true facts of what happen for what ever use the Hearing Board may deem them fit, including mitigation. To declare that one can not state facts, but merely admit to errors no matter how unjustified, as evidence of "rehabilitation" or a condition of reinstatement to the practice of law, appears unreasonable.

A review of the decision denying reinstatement, indicates an analysis that shows that no matter what the Petitioner does, he will be found not to be "rehabilitated". This was a predetermined decision and every available excuse was being sought to justify it. There is no clear guideline in the order of suspension nor the order denying reinstatement as to what the Petitioner must do to be reinstated to his profession, other than to admit that he did something that he did not do. This is arbitrarily and capricious at best.

REASONS FOR GRANTING THE PETITION

The petition for a writ of certiorari should be granted. This matter protects important public policy issues. The constitutionality of the Colorado Rules of Civil Procedure, Rule 251.29(b) is brought to question as it was applied to the Petitioner, to deny him reinstatement to the practice of law, following his suspension. It is the position of the Petitioner that

Rule 251.29(b) as stated and construed by the Hearing Board in his case is constitutionally vague, in violation of the due process clause of the 14th Amendment to the United States Constitution. It is the position of the Petitioner that to the extent that the rule requires him to admit to committing an offense he did not actually commit, the rule is irrational and therefore, violates the due process clause of the 14th Amendment to the United States Constitution. It is the position of the Petitioner, that as construed, the rule is arbitrary and capricious, thus, violates the due process clause of the 14th Amendment to the United States Constitution. It is the position of the petitioner that the rule as applied to him violates due process and equal protection clauses of the 14th Amendment to the United States Constitution. It is the position of the Petitioner that due process of law requires that before the state of Colorado can rely on the Petitioners failure to provide report of his medical condition, during the period of his suspension, to take a valuable property right, he should be given an opportunity for remedial action and a meaningful hearing.

The assurance of the integrity of the judicial process and the pursuit of truth is an important public policy matter and an issue in this case. The need to protect and assure Constitutional guarantees to a professional persons acting within the bounds of the law . The need to ensure that a court of law would protect the legal rights of citizens without wilfully employing any stealthy methods to deny or circumvent same.

The Petitioner in **Case 98-1552**, assured this honorable court that he would be exonerated by the record. Petitioner secured the admission of the Supreme court that it received the transcript that it claimed that it did not receive. This is a violation of human decency and due process of law.

This may have surprised the officials of the Colorado Supreme Court who did not realize that Franklin D. Patterson delivered the letter from the Supreme Court to the Petitioner, **APPENDIX C** but would not surprise anyone who knows the

meticulous approach of the Petitioner, who represented the University of Denver, College of Law, at a regional moot court competition as a law student, has been invited to prepare students at the University and was a judge at international moot court competition in Washington, D. C., was an adjunct professor of Law at Metropolitan State College, and passed the bar exam by scoring 154 in the national part of the bar exam, thus, guaranteeing that the essay part of the Colorado exam was not reviewed. This is the professional that is being destroyed. Petitioner cries for justice by asking for a writ of certiorari to the Supreme Court of Colorado.

CONCLUSION

The Petitioner prays this honorable court for a writ of certiorari to the Supreme Court of the State of Colorado for the purpose of determining the constitutional basis for suspension of the Petitioner from the practice of law, ad infinitum, under the facts and circumstances of his case. The Petitioner did not at any time, by expressing the "lessons he learned", "accept" the injustice of his suspensions. The Petitioner had no choice but to serve the suspensions.

Respectfully submitted,

Patrick Anene Egbune
818 South Chambers Road, #302
Aurora, Colorado 80017
(303)745-7519

Date: 16th day of October, 2001.

APPENDIX A

Case No. 01-SA-62

SUPREME COURT, STATE OF COLORADO
TWO EAST 14TH AVENUE
DENVER, COLORADO 80203

ORIGINAL PROCEEDING IN DISCIPLINE, OOPDJ58

IN THE MATTER OF: PATRICK ANENE EGBUNE

ORDER OF COURT

Upon consideration of the Record on Appeal, together with the Opening and Answer Briefs filed by the parties, and now being sufficiently advised in the premises,

IT IS ORDERED that the Hearing Board's decision be, and hereby is, AFFIRMED.

BY THE COURT, EN BANC, SEPTEMBER 5, 2001

SEAL OF THE SUPREME COURT OF COLORADO

cc:

Hon. Roger Keithley
Presiding Disciplinary Judge

Patrick Egbune
818 S. Chambers Rd., #302
Aurora, CO 80017

James Sudler
Assistant Regulation Counsel

APPENDIX B

SUPREME COURT, STATE OF COLORADO,

ORIGINAL PROCEEDING IN DISCIPLINE BEFORE
THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
600 17TH STREET, SUITE 510-S
DENVER, CO 80202

Case Number

00PDJ058

Petitioner:
PATRICK A. EGBUNE,

v.

Respondent:
THE PEOPLE OF THE STATE OF COLORADO

OPINION AND ORDER DENYING REINSTATEMENT

Opinion by the Presiding Disciplinary Judge Roger L. Keithley
and Hearing board members
Kathryn S. Lonowski and Robert M. Maes

REINSTATEMENT DENIED

This reinstatement matter was heard November 7, 2000, pursuant to C. R. C. P. 251.29(b) and (c) before Presiding Disciplinary Judge ("PDJ") and two hearing board members,, Kathryn S. Lonowski and Robert M. Maes, both members of the bar. James S. Sudler, Assistant Attorney Regulation Counsel represented the People of the State of Colorado (the "People") and Patrick A. Egbune ("Egbune") represented himself. The PDJ and Hearing Board heard testimony on behalf of Egbune from Erich Halvorsen, Carla Shoeboot, Richard Dennis Semakula and Karen Mack. Egbune testified on his own behalf. Neil Weiner, M. D. and David S. Wahl, M. D. testified on behalf of the People. Egbune's Exhibits 1 through 13, and the People's Exhibit 1 through 5 were offered and admitted into evidence by stipulation.

The PDJ and Hearing Board considered the testimony and exhibits admitted, assessed the credibility of the witnesses, considered the argument set forth in the parties' respective trial briefs, and made the following findings of fact which were established by clear and convincing evidence:

I FINDINGS OF FACT

Egbune was licensed to practice law in the State of Colorado on May 9, 1991,, attorney registration number 20397. He was suspended from the practice of law for one year and one day by order of the Supreme Court in case no. 98SA120 and case no 98SA206. In re Egbune, 971 P. 2d 1065 (Colo. 1999), cert. Denied, 526 U. S. 1115 (1999). The suspension resulting from the Supreme Court's order was effective February 20, 1999.

The disciplinary suspension imposed against Egbune arose from two separate events of misconduct. In case no.

98SA206, the more serious of the events, Egbune was found to have violated Colo. RPC 8.4(b) by engaging in conduct which would violate § 18-3-404(1)(a), 5 C. R. S. (1998), third degree sexual assault. Specifically, Egbune was found to have inappropriately touched a female client in his office. In Colo. RPC 3.3(a)(1)(making a false statement to a tribunal) by recklessly accusing a judge and opposing counsel of having improper ex parte communications. Egbune was ordered to pay costs in the amount of $2,899.01.

On May 12, 2000, in a separate disciplinary action, case no. GC98A13, involving misconduct which occurred both prior to and concurrently with the misconduct for which the one year and one day suspension was imposed, the PDJ and Hearing Board suspended Egbune from the practice of law for a period of six months commencing upon the expiration of his prior suspension. In that disciplinary action, Egbune assumed responsibility for a contingent fee action from another attorney knowing that the prior attorney claimed a portion of any recovery to satisfy his attorney's fees. He settled the action on terms which has been secured by the prior attorney, and disbursed funds resulting from the settlement without notifying the prior attorney or segregating the disputed funds in a trust account. Egbune was found to have violated Colo. RPC 1.15(a)(failure to segregate and maintain disputed funds), Colo. RPC 1.15(b)(failure to provide an accounting), Colo. RPC 1.15(c)(failure to keep funds separate), Colo. RPC 1.5(a)(charging an unreasonable fee), Colo. RPC 8.4(c)(engaging in conduct involving dishonesty, fraud deceit or misrepresentation) and 8.4(h)(other conduct reflecting adversely upon fitness to practice law). Egbune was ordered to pay costs in the amount of $205.22.

Pursuant to C. R. C. P. 241.21,[1] which was in effect at the time of Egbune's suspension, Egbune filed the requisite affidavit following the effective date of his one year and one day suspension. Egbune paid all costs assessed in the respective disciplinary actions. In addition, Egbune reached an agreement in accordance with the orders issued in the six month suspension case.

In addition to the disciplinary cases set forth herein, Egbune was the subject of a disability action commenced in1996, case no. 96SA270. On August 29, 1997 the Supreme Court transferred him to disability inactive status. On November 12, 1997, as a result of an agreement reached between Egbune and the People, Egbune was reinstated to the practice of on the expressed condition that reports regarding his bipolar condition be submitted by his treating physician to the People every three months. Until approximately July 30, 1998, Egbune complied with the reporting condition. Thereafter, Egbune failed to submit or cause to be submitted any reports regarding his mental condition as required by the disability reinstatement order.

On July 19, 2000, Egbune filed a Petition for Reinstatement with the PDJ and tendered the $500.00 deposit for the costs of the reinstatement proceeding in accordance with C. R. C. P. 251.29. On July 31, 2000, the People filed an Answer to the Petition. Upon the conclusion of their investigation authorized by C. R. R. C. 251.29(d), the People supplemented their Answer on September 15, 2000. And opposed reinstatement.

During the period of his suspensions, Egbune has been employed as an automobile salesman. Two of his co-workers

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[1]C. R. C. P. 241.21 was replaced by C. R. C. P. 251.28 effective January 1, 1999.

testified on his behalf that he was of good moral character and had not engaged in any inappropriate conduct of which they were aware. Egbune testified that he has learned from his prior misconduct and discipline and will not engage in similar conduct in the future. Egbune represented to the PDJ and Hearing Board that any future contact with female clients will take place in the presence of a third person so as to eliminate any possibility of improper conduct.[2]

Egbune directed a significant portion of his testimony to minimizing the significance of his prior misconduct or directly denying it. Although he expressed his acceptance of the prior findings of misconduct and voiced the opinion that he had "learned his lesson," he denied that any sexual misconduct ever occurred between himself and his prior client, disagreed that his conduct in the contingent fee case was at variance with required professional norms, and evidenced no awareness of the seriousness of his prior actions. Egbune acknowledged that he had not sought any professional assistance arising out of the sexual abuse situation nor sought professional input regarding the perception of the incident.

Although evidence was presented that Egbune had completed forty-six hours of continuing legal education credits by home study and four hours by seminar since the date of his first suspension, insufficient evidence was tendered regarding the nature of those courses, apart from the course titles and the distribution of general and ethics credits, from which the PDJ and Hearing Board could compare Egbune's efforts to educate himself

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[2]Egbune did not address the impact of this proposed procedure on the integrity of the attorney client privilege.

with regard to the specific misconduct previously found.

Both Dr. Wiener and Dr. Wahl gave testimony regarding Egbune's mental status, their diagnosis and prognosis regarding the impact of his condition on his general fitness to practice law. Neither Dr. Weiner nor Dr. Wahl expressed the opinion that Egbune's mental condition prevented him from practicing law.

II CONCLUSIONS OF LAW

Egbune is subject to the jurisdiction of this court pursuant to C. R. C. P. 251.1(b).

C. R. C. P. 251.29(b) provides, in part:

> An attorney who has been suspended fora period longer than one year must file a petition with the Presiding Disciplinary Judge for reinstatement and must prove by clear and convincing evidence that the attorney has been rehabilitated, has complied with all applicable disciplinary orders and with all provisions of this chapter, and is fit to practice law.

Thus, an attorney who has been suspended from the practice of law must bear the burden of proving that he or she is: (1) rehabilitated; (2) has complied with all applicable disciplinary orders and all provisions of the Colorado Rules of Civil Procedure relating to attorney discipline regarding actions required of suspended attorneys, and (3) is fit to practice law. All three of the elements of proof must be established before

reinstatement may be authorize.

Imposition of discipline against an attorney includes a determination that some professional or personal shortcoming existed upon which the discipline is premised. The shortcoming may have resulted either from personal deficits or from a combination of personal deficits and professional deficits and/or inadequacies in the professional environment. It necessarily follows that the analysis of rehabilitation should be directed at the professional or moral shortcoming which resulted in the discipline imposed. See C. R. C. P. 251.29(c)(5); Tardiff v. State Bar, 612 P. 2d 919, 923 (Cal. 1980)(citing Roth v. State Bar, 253 P. 2d 969, 972(Cal. 1953)(holding that in an application for reinstatement... The proof presented must be sufficient to overcome the court's former adverse judgment of [the] applicant's character)).

Consideration of the issue of rehabilitation requires the PDJ and Hearing Board to consider numerous factors bearing on the petitioner's state of mind and professional ability, including character, conduct since the imposition of the original discipline, professional competence, candor and sincerity, present business pursuits, personal and community service, and the petitioner's recognition of the seriousness of his previous misconduct. See People v. Klein, 756 P. 2d 1013, 1016 (Colo. 1988). Under the factors set forth in Klein, the PDJ and Hearing Board find that Egbune did not establish by clear and convincing evidence that he is rehabilitated or possesses the requisite ability and professional competence to practice law.

Neither the mere passage of time nor personal assurance of future compliance, standing alone, should be interpreted as rehabilitation. In re Sharpe, 499P. 2d 406, 409 (Okla. 1972). In the case of Goff v. People, No. 99PDJ 023, slip op. at 8-14 (Colo.

PDJ August 4, 2000) 29 Colo. Law. 126, 128-130 (October 2000) the PDJ and Hearing Board undertook a thorough analysis of the requirements of C. R. C. P. 251.29. That analysis neither changed nor enhanced the standard of proof required for reinstatement. Rather, it set forth the decisional methodology utilized in determining whether rehabilitation has been accomplished.

The evidence presented in this reinstatement hearing does not meet the required standard of proof that rehabilitation has been achieved. Egbune's initial suspension from practice of law arose from serious misconduct involving sexual improprieties with a client and unsupported allegations of misconduct against a judge and opposing counsel. Although Egbune has consistently denied the sexual improprieties, the hearing panel which heard that case determined that the issue turned upon the credibility of the witnesses presented and found the female client's version of events more. Credible. The Supreme Court, after reviewing the decision, affirmed its findings. Since that time, Egbune has neither accepted the conclusion of the objective fact finders that his conduct was improper, nor sought insight into his continuing perception that the conduct did not violate professional requirements. Indeed, Egbune's only response to the sexual misconduct finding is to deny that it ever occurred.

Insufficient evidence was presented in this matter directed to those efforts undertaken by Egbune, if any, to rehabilitate himself from his advancement of unsupported allegations against a judge and opposing counsel. The facts set forth in the Colorado Supreme Court opinion imposing the original suspension reflect Egbune's unwillingness to advance allegations of misconduct against others based entirely upon surmise and conjecture without any supportable factual basis. Although it appears from the evidence that Egbune completed fifty hours of continuing legal

education courses following his suspension, insufficient evidence was presented from which it may be determined that the courses were focused upon the duties and obligations of attorneys to investigate circumstances before advancing allegations of improper conduct before a tribunal. Moreover, even if one or more of the courses taken did address that issue, there is no evidence indicating that Egbune either understands that responsibility or accepts it.

Egbune's second suspension arose from the manner in which he handle a contingent fee matter transferred to him from another attorney. The findings in that case reflect a basic misunderstanding by Egbune of his duties and responsibilities both to prior counsel and his client, a willing ness to engage in deceptive conduct for personal gain and a lack of knowledge regarding the applicability of the Rules of Professional Conduct to the retention of disputed funds. No evidence was offered by Egbune ...apart from his testimony in which he sought to justify and minimize his misconduct–from which it can be determined that he has made any successful effort to gain a greater understanding of his duties and responsibilities to his client or others who claim an interest in disputed funds or to recognize that the Rules of Professional Conduct, as opposed to his observation and interpretation of the actions of others, govern his professional conduct.

Goff, supra, recognizes the principle that rehabilitation requires proof by clear and convincing evidence that the personal and/or professional deficiencies which resulted in the original discipline have, in fact, been eliminated. Goff, case no. 00PDJ023, slip op. at 11, 29 Colo. Law. at 129 (holding that the analysis of rehabilitation should be directed at the professional or moral shortcoming which resulted in the discipline imposed). Neither personal assurances that the conduct will not recur nor

passive attendance at Continuing Legal Education course, without more, meet that standard. There must be evidence of positive and successful efforts to correct the deficits from which the original misconduct arose. No such evidence was presented in this reinstatement hearing.

Because Egbune has failed to establish by clear and convincing evidence that he has been rehabilitated, we cannot conclude that he is fit to practice law. See Goff, case no. 00PDJ023, slip op. at 13, 29 Colo. Law. at 130. Moreover, undisputed evidence presented in this proceeding establishes that over an extended period of time, Egbune has failed to comply with the Supreme Court's order arising out of his 1996disability inactive status proceeding. His failure to comply with that order over the stated period of time, whether through misunderstanding, neglect or conscious choice, precludes any finding of fitness to practice law.[3]

III ORDER

It is therefore ORDERED;

Patrick A. Egbune's Petition for Reinstatement to the practice of law is herein DENIED.

DATED THIS 16th DAY OF January, 2001

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[3]Under C. R. C. P. 251.29(b), Egbune's disciplinary reinstatement requires proof of compliance with all provisions of the Colorado Rules of Procedure Regarding Attorney Discipline and Disability, Chapter 20.

Seal of the Supreme Court of the State of Colorado.

Signed:

ROGER L. KEITHLEY
PRESIDING DISCIPLINARY JUDGE

KATHRYN S. LONOWSKI
HEARING BOARD MEMBER

ROBERT M. MAES
HEARING BOARD MEMBER

Copies to:

James S. Sudler Office of Attorney Regulation Counsel	Via Hand Delivery
Patrick A. Egbune Petitioner	Via First Class Mail
Kathryn S. Lonowski Robert M. Maes Hearing Board Members	Via First Class Mail Via First Class Mail
Mac Danford Colorado Supreme Court	Via Hand Delivery

APPENDIX C

Supreme Court of Colorado
STATE JUDICIAL BUILDING
2 EAST 14TH AVENUE
DENVER, COLORADO 80203
(303)861-1111

MAC V. DANFORD — CLERK OF COURT
COURT ADMINISTRATOR

April 7, 1999

Franklin D. Patterson
Patterson & Nuss, Puss
8101 E. Prentice Avenue, Suite M250
Englewood, CO 80111

Dear Mr. Patterson:

In response to Greg Kay's request for a letter detailing the receipt of any transcripts filed in 98SA120 and 98SA206, People v. Patrick Anene Egbune, the only transcripts or depositions filed in these cases are the following:

98SA120 - Deposition of The Honorable Cheryl L. Post filed March 25, 1998

* dated November 7, 1997

* labeled Complainant's Exhibit 85

98SA206 - Deposition of Rhonda A. Robertson filed July 30, 1998

* labeled Exhibit 2

and

Transcript of Proceedings March 11, 1998 filed October 1, 1998

Sincerely,

Signed:

Tanya Norris, Deputy Clerk
Colorado Supreme Court

APPENDIX D

PETITIONER'S REQUEST FOR ADMISSION AND INTERROGATORIES

4. Request for admission No. 1: Admit or deny that all costs ordered by the Supreme Court and the Presiding Disciplinary Judge in cases 98SA120, 98SA206, 98A-13, and 00PDJ012, respectively, against the Petitioner and in favor of the people of the State of Colorado, have been paid in full.

   Response to Admission No. 1: Admit.

5. Request for admission No. 2: Admit or deny that the Petitioner, Patrick Anene Egbune filed a statement showing agreement between the Petitioner and Philip Cockerille, in full satisfaction and settlement of any and all claim by Phillip Cockerille, dealt with by the Presiding Disciplinary Judge in case number 98A-13.

   Response to Admission No. 2: Admit.

6. Request for admission No. 3: Admit or deny that the Presiding Disciplinary Judge approved the statement of full and final satisfaction of the claim of Phillip Cockerille filed by Petitioner, Patrick A. Egbune.

   Response to Admission No. 3: Admit.

7. Request for admission No. 4: Admit or deny that the

Petitioner, Patrick Anene Egbune filed the Affidavit required by C. R. C. P. 251.28 covering Supreme Court cases 98SA120, 98SA206, 98A-13.

Response to Admission No. 4: Admit.

8. Request for admission No. 5: Admit or deny that any individual licensed to practice law in the State of Colorado, who complete the home study program enumerated in paragraph 5, of the Verified Petition for Reinstatement filed by the Petitioner, Patrick Anene Egbune, satisfies the requirement to maintain professional competence acceptable to the Supreme Court of the State of Colorado.

Response to Admission No. 5: The respondent denies this request. This request for admission calls for a legal conclusion. In other words, the question asks for the respondent, the People of the State of Colorado, to conclude as a matter of law, that in-home study satisfies the requirement to maintain professional competence. Wether or not such in-home study leads to the legal conclusion implied by the Petitioner, is a matter of hearing board to decide at the hearing after hearing all the facts related to this issue. The respondent has no facts which contradict the statement by the Petitioner that he has done the in-home study program. Furthermore, the issue in this matter is whether the respondent has been rehabilitated from the misconduct that was shown in the disciplinary matters leading to his suspensions. **While the hearing board may conclude that in-home did satisfy the requirement for maintaining professional competence, the petitioner still bears the burden of proof by clear and convincing evidence that his**

competence is at a level enabling him to prove reinstatement is appropriate.

9. Request for admission No.6: Admit or deny that all orders of the court concerning the suspension of the Petitioner, from the practice of law in the State of Colorado have been complied with by the Petitioner, Patrick Anene Egbune.

Response to Admission No. 6: The respondent denies this request. The respondent does have knowledge that the petitioner has not complied with the specific order that he furnish to the Office of Disciplinary Counsel (n/k/a Office of Attorney Regulation Counsel), information concerning his mental health. This issue has been brought up by the respondent in its motion for independent medical examination performed. The respondent incorporates the allegations made in that motion and the order attached thereto in this response. **Other than that particular order, the respondent admits that all other orders of the Supreme Court concerning the suspensions of the petitioner have been complied with.**

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1: State in detail if there is any order of the Supreme Court or the Presiding Disciplinary Judge regarding the suspension of the Petitioner from the practice of law in the State of Colorado, that has not been complied with and the manner in which the Petitioner has failed to comply with such order.

ANSWER TO INTERROGATORY NO. 1: Please see Response to Request for Admission No. 6.

INTERROGATORY NO. 2: State in detail the basis if any for any denial of a Request for Admission submitted contemporaneously with these interrogatories.

ANSWER TO INTERROGATORY NO. 2: Please see Responses to Request for Admission above.

Dated this 6th day of September, 2000.

Signed by James S, Sudler

_____

Attorney for the People

APPENDIX E

SECOND REQUEST FOR ADMISSION AND INTERROGATORY

1. Admit or deny that Philip R. Cockerille brought an action against Patrick Anene Egbune, Gezachew Ambaw and Continental Casualty Company, in County Court, City and County of Denver, State of Colorado, Case No. 3-N-27539.

   Response to Admission No. 1: Admit

2. Admit or deny that County Court, City and County of Denver, State of Colorado, Case No.3-N-27539, a case brought by Philip R. Cockerille was dismissed in favor of Defendants, Patrick Anene Egbune, Gezachew Ambaw, and Continental Casualty Company.

   Response to Admission No. 2: admit

3. Admit or deny that the only appeal taken by Philip R. Cockerille concerning County Court, City and County of Denver, State of Colorado, Case No. 3-N-27539, was as documented in District Court, City and County of Denver, State of Colorado, Case No. 98-CV-2461, Courtroom 2.

   Response to Admission No. 3: admit

4. Admit or deny that the District Court, City and County of Denver, State of Colorado, Case No. 98-CV-2461,

Courtroom 2, affirmed the decision of the County Court, City and County of Denver, State of Colorado, in Case No. 3-N-27539, to dismiss Philip R. Cockerille's case.

Response to Admission No. 4: admit

5. Admit or deny that the County Court, City and County of Denver, Case No. 3-N-27539 and the District Court, City and County of Denver, Case No. 98-CV-2461, Courtroom 2, held that there is no common law attorney's lien in Colorado and that any lien that an attorney may assert is protected as provided in C. R. S. § 12-5-119 and C. R. S. § 12-5-120, as interpreted by the Supreme Court of the State of Colorado.

Response to Admission No. 5: admit

6. Admit or deny that under statute, an attorney must have filed an action in court in order to be entitled to lien concerning a case in which the attorney has as part of his obligation, the filing of a law suit.

Response to Admission No. 6:Denied.This request for admission is not comprehensive in its current form. It is true and its admitted that an attorney has the right to a charging lien that he/she can file in the court and in the specific case in which that attorney has done work. An attorney does not have the authority or right to file a charging lien except as according to statute.

7. Admit or deny that the County Court and the District Court of the City and County of Denver ruled that failure of Philip R. Cockerille to file a law suit on behalf of Ambaw Gezachew in his personal injury suit, precludes

him from pursuing a claim against Patrick Anene Egbune, Gezachew Ambaw and Continental Casualty Company.

Response to Admission No. 7: admitted.

8. Admit or deny that in the case brought by Philip R. Cockerille against Patrick Anene Egbune, Gezachew Ambaw, and Continental Casualty Company, in the County Court, City and County of Denver, State of Colorado, Case No. 3-N-27539, there is no common law attorney's lien and that any claim of attorney's lien would be based on C. R. S. § 12-5-119 and C. R. S. § 12-5-120 as interpreted by the Supreme Court of the State of Colorado.

Response to Admission No. 8:Denied. The request for admission asks for a legal analysis of the particular action as opposed to what the court ruled or held. Nevertheless, it is conceivable that, despite the lack of a statute authorizing Mr. Cockerille to have a lien, his case could have be based on equitable grounds. The respondent does not know if Mr. Cockerille argued equity as grounds for a lien.

9. Admit or deny that Philip R. Cockerille's case against Patrick Anene Egbune was dismissed, in favor of Patrick Anene Egbune, without appeal, before any disciplinary action was taken against Patrick Anene Egbune, by the Attorney Regulation Counsel and the Presiding Disciplinary Judge, in case number 98A-13.

Response to Admission No. 9:Denied because the request in its present form is not comprehensive. It is unclear what the phrase "dismissed in favor of Patrick Anene

Egbune, without appeal" means. It is the understanding of the respondent that Mr. Cockerille did appeal the decision of the county court. That appeal was not successful. It is the understanding of the undersigned that the appeal was over before the hearing board issued its opinion in the referenced case.

SECOND INTERROGATORY

1. State in detail the basis, if any, for any denial of a Request for Admission submitted herein-above with this interrogatory.

ANSWER TO INTERROGATORY NO. 1See above responses to each request for admission including General Objection at the beginning.

Dated this 20th day of September, 2000.
Signed by James Sudler.

_____
Attorney for the People

APPENDIX F

SUPREME COURT, STATE OF COLORADO
CASE NO.: 00PDJ 058
ORIGINAL PROCEEDING IN DISCIPLINE BEFORE
THE PRESIDING DISCIPLINARY JUDGE

ORDER RE: PENDING MOTIONS

A Motions Hearing was held on October 26, 2000 on two pending motions: Petitioner's Emergency Motion Requesting a Waiver of the Submitting of Medical Report Hearing filed October 25, 2000, and Petitioner's Objection to the Opinion of Dr. David Wahl filed October 20, 2000. James S. Sudler appeared on behalf of the People of the State of Colorado. Petitioner Patrick A. Egbune appeared pro se by telephone. Having heard oral argument on the pending motions, and being fully apprised of the matter at bar, the court Finds and Rules as follows:

1. Regarding petitioner's Emergency Motion Requesting a Waiver of the Submitting of Medical Report Prior to Hearing, there being no objection from respondent, the deadlines set forth in the At Issue Conference Order are vacated. Dr. Weiner has been subpoenaed to testify at the reinstatement hearing. On that condition, petitioner must provide respondent with a copy of Dr. Weiner's opinions in a written report twenty-four (24) hours prior to the reinstatement hearing containing all of Dr. Weiner's opinions he intends to present in testimony. The scope of Dr. Weiner's testimony shall be limited to those opinions set forth in the report. Should petitioner fail to provide a written report to

respondent on or before this deadline, the court shall allow neither the written report nor Dr. Weiner's live testimony into evidence.

2. Regarding petitioner's objection to the Opinion of Dr. Wahl, the motion is MOOT at this time. Respondent withdraws Dr. Wahl's opinion at the present time, but reserves the right to seek its introduction at the reinstatement hearing.

3. Regarding the stipulation of the parties set forth in paragraph 4 of petitioner's Emergency Motion Requesting a Waiver of the Submitting of Medical Report prior to Hearing, the parties have stipulated to the authenticity and admissibility of the affidavit of Lori Stenstrom, and the letter dated April 7, 1999 from Tanya Norris to Franklin Patterson. The parties have agreed that petitioner need not serve subpoenas on Franklin D. Patterson, Lori Stenstrom and Tanya Norris. Respondent reserves the right to raise other objections regarding the testimony of these individuals at the reinstatement hearing.

DATED THIS 26TH DAY OF OCTOBER, 2000.

Seal of the Supreme Court of the State of Colorado

Signed:
ROGER L. KEITHLEY
PRESIDING DISCIPLINARY JUDGE

APPENDIX G

There are really two bases of Egbune's exception to the board's findings and recommendation. The first is in effect a reargument of the facts of the case. The respondent has not filed a transcript of the hearing, and the board's factual findings are supported by the record we do have. We therefore will not overturn the findings. See People v. Reynolds, 933 P.2d 1295, 1303 (Colo. 1997).

we conclude that a suspension for a year and a day, which carries with it the requirement that Egbune petition for reinstatement, is appropriate. Since he will be suspended for this period, and not a shorter one, we elect not to make the monitoring conditions included in the recommendation in No. 98SA120 mandatory at this time.

APPENDIX I

Neil Allen Weiner, M. D.
4770 East Iliff Ave.
Suite #229
Denver, CO 80222
Phone: 303-756-4608
Fax: 303-7577994

November 2, 2000

James S. Sadler
600 17th Street
Suite #510 South
Denver, CO 80202-5434

Dear Mr. Sadler:

I am writing at the request of Mr. Patrick Anene Egbune. I am scheduled to testify as an expert witness at an upcoming hearing. In summary, my testimony will be based on my clinical examination of the patient, the history that I have obtained from him, and the collaborative history I have obtained from his brother. Based on this information and these observations, I believe that Mr. Egbune's psychiatric disorder is under good control. His current mental state should not impact his ability to practice law. I would recommend ongoing monitoring by a psychiatrist at a minimum of four times a year.

Sincerely,

Signed Neil Weiner, M. D.